



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB1058

Introduced 2/4/2005, by Rep. Marlow H. Colvin

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2MM

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that a consumer who has been the victim of identity theft may place a security freeze on his or her credit report by making a request in writing by certified mail to a consumer credit reporting agency with a valid copy of a police report, investigative report, or complaint that the consumer has filed with a law enforcement agency about unlawful use of his or her personal information by another person. Requires a credit reporting agency to place a security freeze on a consumer's credit report no later than 5 business days after receiving a written request from the consumer. Provides that if the consumer wishes to allow his or her credit report to be accessed for a specific party, parties, or period of time while a freeze is in place, he or she shall contact the consumer credit reporting agency, request that the freeze be temporarily lifted, and provide certain information. Provides that if a security freeze is in place, a credit reporting agency shall not change any of the following official information in a credit report without sending a written confirmation of the change to the consumer within 30 days of the change being posted to the consumer's file: (i) name, (ii) date of birth, (iii) Social Security number, and (iv) address. Provides that certain entities are not required to place a security freeze in a credit report provided certain conditions are met. Defines "proper identification".

LRB094 06009 RXD 36069 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by changing Section 2MM as follows:

6 (815 ILCS 505/2MM)

7 Sec. 2MM. Verification of accuracy of credit reporting
8 information used to extend consumers credit and security freeze
9 on credit report for identity theft victims.

10 (a) A credit card issuer who mails an offer or solicitation
11 to apply for a credit card and who receives a completed
12 application in response to the offer or solicitation which
13 lists an address that is not substantially the same as the
14 address on the offer or solicitation may not issue a credit
15 card based on that application until reasonable steps have been
16 taken to verify the applicant's change of address.

17 (b) Any person who uses a consumer credit report in
18 connection with the approval of credit based on the application
19 for an extension of credit, and who has received notification
20 of a police report filed with a consumer reporting agency that
21 the applicant has been a victim of financial identity theft, as
22 defined in Section 16G-15 of the Criminal Code of 1961, may not
23 lend money or extend credit without taking reasonable steps to
24 verify the consumer's identity and confirm that the application
25 for an extension of credit is not the result of financial
26 identity theft.

27 (c) A consumer who has been the victim of identity theft
28 may place a security freeze on his or her credit report by
29 making a request in writing by certified mail to a consumer
30 credit reporting agency with a valid copy of a police report,
31 investigative report, or complaint that the consumer has filed
32 with a law enforcement agency about unlawful use of his or her

1 personal information by another person. A credit reporting
2 agency shall not charge a fee for placing, removing, or
3 removing for a specific party or parties a security freeze on a
4 credit report. A security freeze shall prohibit, subject to the
5 exceptions under subsection (i) of this Section, the credit
6 reporting agency from releasing the consumer's credit report or
7 any information from it without the express authorization of
8 the consumer. When a security freeze is in place, information
9 from a consumer's credit report shall not be released to a
10 third party without prior express authorization from the
11 consumer. This subsection does not prevent a credit reporting
12 agency from advising a third party that a security freeze is in
13 effect with respect to the consumer's credit report.

14 (d) A credit reporting agency shall place a security freeze
15 on a consumer's credit report no later than 5 business days
16 after receiving a written request from the consumer.

17 (e) The credit reporting agency shall send a written
18 confirmation of the security freeze to the consumer within 10
19 business days and shall provide the consumer with a unique
20 personal identification number or password, other than the
21 consumer's Social Security number, to be used by the consumer
22 when providing authorization for the release of his or her
23 credit for a specific party, parties, or period of time.

24 (f) If the consumer wishes to allow his or her credit
25 report to be accessed for a specific party, parties, or period
26 of time while a freeze is in place, he or she shall contact the
27 consumer credit reporting agency, request that the freeze be
28 temporarily lifted, and provide the following:

29 (1) Proper identification;

30 (2) The unique personal identification number or
31 password provided by the credit reporting agency; and

32 (3) The proper information regarding the third party,
33 parties, or time period for which the report shall be
34 available to users of the credit report.

35 (g) A credit reporting agency may develop procedures
36 involving the use of telephone, fax, the Internet, or other

1 electronic media to receive and process a request from a
2 consumer to temporarily lift a freeze on a credit report
3 pursuant to subsection (f) in an expedited manner.

4 (h) A credit reporting agency that receives a request from
5 a consumer to temporarily lift a freeze on a credit report
6 pursuant to subsection (f), shall comply with the request no
7 later than 3 business days after receiving the request.

8 (i) A credit reporting agency shall remove or temporarily
9 lift a freeze placed on a consumer's credit report only in the
10 following cases:

11 (1) upon consumer request, pursuant to subsection (f)
12 or subsection (l) of this Section; or

13 (2) if the consumer's credit report was frozen due to a
14 material misrepresentation of fact by the consumer.

15 If a consumer credit reporting agency intends to remove a
16 freeze upon a consumer's credit report pursuant to this
17 subsection, the consumer credit reporting agency shall notify
18 the consumer in writing prior to removing the freeze on the
19 consumer's credit report.

20 (j) If a third party requests access to a credit report on
21 which a security freeze is in effect, and this request is in
22 connection with an application for credit or any other use, and
23 the consumer does not allow his or her credit report to be
24 accessed for that specific party or period of time, the third
25 party may treat the application as incomplete.

26 (k) If a consumer requests a security freeze, the credit
27 reporting agency shall disclose to the consumer the process of
28 placing and temporarily lifting a security freeze, and the
29 process for allowing access to information from the consumer's
30 credit report for a specific party, parties, or period of time
31 while the freeze is in place.

32 (l) A security freeze shall remain in place until the
33 consumer requests that the security freeze be removed. A credit
34 reporting agency shall remove a security freeze within 3
35 business days of receiving a request for removal from the
36 consumer, who provides both of the following:

1 (1) Proper identification; and

2 (2) The unique personal identification number or
3 password provided by the credit reporting agency.

4 (m) A consumer credit reporting agency shall require proper
5 identification of the person making a request to place or
6 remove a security freeze.

7 (n) The provisions of subsections (c) through (m) of this
8 Section do not apply to the use of a consumer credit report by
9 any of the following:

10 (1) A person or entity, or a subsidiary, affiliate, or
11 agent of that person or entity, or an assignee of a
12 financial obligation owing by the consumer to that person
13 or entity, or a prospective assignee of a financial
14 obligation owing by the consumer to that person or entity
15 in conjunction with the proposed purchase of the financial
16 obligation, with which the consumer has or had prior to
17 assignment an account or contract, including a demand
18 deposit account, or to whom the consumer issued a
19 negotiable instrument, for the purposes of reviewing the
20 account or collecting the financial obligation owing for
21 the account, contract, or negotiable instrument. For
22 purposes of this subsection, "reviewing the account"
23 includes activities related to account maintenance,
24 monitoring, credit line increases, and account upgrades
25 and enhancements.

26 (2) A subsidiary, affiliate, agent, assignee, or
27 prospective assignee of a person to whom access has been
28 granted under subsection (f) of this Section for purposes
29 of facilitating the extension of credit or other
30 permissible use.

31 (3) Any state or local agency, law enforcement agency,
32 trial court, or private collection agency acting pursuant
33 to a court order, warrant, or subpoena.

34 (4) A child support agency acting pursuant to Title
35 IV-D of the Social Security Act.

36 (5) The relevant state agency or its agents or assigns

1 acting to investigate Medicaid fraud.

2 (6) The Department of Revenue or its agents or assigns
3 acting to investigate or collect delinquent taxes or unpaid
4 court orders or to fulfill any of its other statutory
5 responsibilities.

6 (7) The use of credit information for the purposes of
7 prescreening as provided for by the federal Fair Credit
8 Reporting Act.

9 (8) Any person or entity administering a credit file
10 monitoring subscription service to which the consumer has
11 subscribed.

12 (9) Any person or entity for the purpose of providing a
13 consumer with a copy of his or her credit report upon the
14 consumer's request.

15 (o) If a security freeze is in place, a credit reporting
16 agency shall not change any of the following official
17 information in a credit report without sending a written
18 confirmation of the change to the consumer within 30 days of
19 the change being posted to the consumer's file: (i) name, (ii)
20 date of birth, (iii) Social Security number, and (iv) address.
21 Written confirmation is not required for technical
22 modifications of a consumer's official information, including
23 name and street abbreviations, complete spellings, or
24 transposition of numbers or letters. In the case of an address
25 change, the written confirmation shall be sent to both the new
26 address and to the former address.

27 (p) The following entities are not required to place a
28 security freeze in a credit report, provided, however, that any
29 person that is not required to place a security freeze on a
30 credit report under paragraph (3) of this subsection, shall be
31 subject to any security freeze placed on a credit report by
32 another credit reporting agency from which it obtains
33 information:

34 (1) A check services or fraud prevention services
35 company, which issues reports on incidents of fraud or
36 authorizations for the purpose of approving or processing

1 negotiable instruments, electronic funds transfers, or
2 similar methods of payment.

3 (2) A deposit account information service company,
4 which issues reports regarding account closures due to
5 fraud, substantial overdrafts, ATM abuse, or similar
6 negative information regarding a consumer to inquiring
7 banks or other financial institutions for use only in
8 reviewing a consumer request for a deposit account at the
9 inquiring bank or financial institution.

10 (3) A credit reporting agency that:

11 (A) acts only to resell credit information by
12 assembling and merging information contained in a
13 database of one or more credit reporting agencies; and

14 (B) does not maintain a permanent database of
15 credit information from which new credit reports are
16 produced.

17 (q) ~~(e)~~ For purposes of this Section: 7

18 "~~Extension~~ extension of credit" does not include an
19 increase in an existing open-end credit plan, as defined in
20 Regulation Z of the Federal Reserve System (12 C.F.R. 226.2),
21 or any change to or review of an existing credit account.

22 "Proper identification" means information generally deemed
23 sufficient to identify a person. Only if the consumer is unable
24 to reasonably identify himself or herself with the information
25 described above, may a consumer credit reporting agency require
26 additional information concerning the consumer's employment
27 and personal or family history in order to verify his or her
28 identity.

29 (r) ~~(d)~~ Any person who violates this Section ~~subsection (a)~~
30 ~~or subsection (b)~~ commits an unlawful practice within the
31 meaning of this Act.

32 (Source: P.A. 93-195, eff. 1-1-04.)